

## Message Text

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C O N F I D E N T I A L USUN 3491

EXDIS

E.O. 11652: GDS

TAGS: PFOR PBOR UN

SUBJ: INTERNATIONAL COURT OF JUSTICE AND LAW OF THE SEA:  
VIEWS OF THE ICJ PRESIDENT

1. INTERNATIONAL COURT OF JUSTICE PRESIDENT LACHS TOOK THE OCCASION OF LUNCH WITH DELOFFS TO RAISE A VARIETY OF MATTERS RELATING TO THE COURT. HE EXPRESSED THE HOPE THAT US MIGHT BE ABLE TO FIND A CASE TO BRING TO THE COURT THAT WOULD MAKE POSSIBLE THE COURT'S INITIAL USE OF ITS NEW RULES PROVIDING FOR RAPID, PERHAPS FOUR-WEEK, DECISION-MAKING BY AN APPROPRIATELY CONSTITUTED COURT CHAMBER. THE PRESIDENT SAID HE BELIEVES AN INITIAL USE OF THIS NEW AND EXPEDITIOUS PROCEDURE COULD FURTHER US AND FRIENDLY INTERESTS IN PROMOTING THE COURT AS A FORUM FOR THE FAIR AND IMPARTIAL SETTLEMENT OF INTERNATIONAL DISPUTES AND AS A MECHANISM FOR STIMULATING STATES IN CONTENTIOUS RELATIONS TO SETTLE DISPUTES BY DIRECT NEGOTIATION OUTSIDE OF THE COURT. HE HAS BEEN SPEAKING TO A NUMBE OF FOREIGN MINISTERS IN THIS REGARD DURING THE OPENING DAYS OF THE GENERAL ASSEMBLY. SPEAKING CONFIDENTIALLY, THE PRESIDENT EXPRESSED THE HOPE HE HAD PLAYED A USEFUL ROLE WHEN, ON RECEIVING THE PAKISTANI COMPLAINT AGAINST INDIA IN THE POW CASE, HE, IN EXERCISING HIS POWERS AS PRESIDENT OF THE COURT, HAD ASKED THE INDIAN AMBASSADOR AT THE HAGUE TO INDICATE URGENTLY TO THE INDIAN GOVERNMENT THAT THE THEN-CONTEMPLATED TRANSFER OF POW'S TO  
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BANGLADESH WOULD BE IMPROPER IN VIEW OF THE MATTER  
BEING SUB JUDICE.

2. JUDGE LACHS ASKED THAT FURTHER CONSIDERATION BE

GIVEN TO THE DESIRABILITY OF THE COURSE OF ACTION PROPOSED BY THE USG THAT THE NEW LAW OF THE SEA TREATY SHOULD PROVIDE FOR ITS OWN JUDICIAL TRIBUNAL. RECALLING THAT HE WISHED TO BE UNDERSTOOD AS SPEAKING AS A LONG-TIME FRIEND, AND NOTWITHSTANDING HIS OBVIOUS BIAS IN FAVOR OF THE ICJ, THE PRESIDENT SAID HE BELIEVES THAT US POLICY GOALS IN THIS AREA COULD BE BETTER ACHIEVED BY WORKING FOR AGREEMENT ON USE OF EXISTING ICJ MACHINERY RATHER THAN THROUGH THE CREATION OF AN ENTIRELY NEW TRIBUNAL. IN PARTICULAR, HE WANTS TO EXPLORE THE POSSIBILITY OF UTILIZING THE NEW RULES OF COURT TO CONSTITUTE SEPARATE SPECIALIZED CHAMBERS FOR QUESTIONS RELATING BOTH TO LAW OF THE SEA AND TO ENVIRONMENT, ADDING THAT HE INTENDS TO TALK TO MAURICE STRONG ABOUT THE LATTER. USE OF THE COURT WOULD AVOID THE EXPENSES ATTENDANT ON SETTING UP ENTIRELY NEW MACHINERY, AND THE DIPLOMATIC PROBLEM OF OBTAINING ACCEPTANCE WOULD BE NO GREATER. A NUMBER OF THE JUDGES POSSESS THE REQUISITE EXPERTISE ON MARITIME QUESTIONS, AND THE IMPARTIALITY, PRECISION, FINALITY AND SPEED REQUIRED COULD AS WELL BE PROVIDED BY GIVING THE COURT JURISDICTION OVER DISPUTES ARISING UNDER THE FORTHCOMING TREATY OR TREATIES AS BY CREATING A NEW ADJUDICATING BODY.

3. THE PRESIDENT INDICATED HE HAS HAD TREATMENT FOR DUODENAL COMPLAINT REQUIRING HOSPITALIZATION BUT THAT HE BELIEVES THIS HAS BEEN OVERCOME. HE REGRETTED THAT THIS HAD CAUSED HIS BEING UNABLE TO FULFILL THE INVITATION TO SPEAK AT THE ANNUAL AMERICAN SOCIETY OF INTERNATIONAL LAW MEETING IN APRIL AND HOPED THAT ON ANOTHER OCCASION HE WOULD NOT BE FOUND WANTING.  
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